

United States Courts  
Southern District of Texas  
FILED

AUG 30 2005

Michael N. Milby, Clerk of Court

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

DOUGLAS KAYE §  
Plaintiff §  
VS. § CAUSE NO. 4:05-CV-02809  
SYNTHEIS (USA) LP § JURY  
Defendant §

**DEFENDANT SYNTHEIS (USA) LP's INITIAL DISCLOSURES**

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TO: Plaintiff, Douglas Kaye, by and through his attorney of record, Andrew E. Rubenstein,  
The Mallia Law Firm, P.C., One Riverway, Suite 610, Houston, TX 77056

COMES NOW, DEFENDANT, SYNTHEIS (USA) LP, and files its Initial Disclosures  
required by Fed.R. Civ.P.26 the referenced cause, and would respectfully show the Court as follows:

A. THE NAME AND, IF KNOWN, THE ADDRESS AND TELEPHONE NUMBER OF  
EACH INDIVIDUAL LIKELY TO HAVE DISCOVERABLE INFORMATION THAT THE  
DISCLOSING PARTY MAY USE TO SUPPORT ITS CLAIMS OR DEFENSES, UNLESS  
SOLELY FOR IMPEACHMENT, IDENTIFYING THE SUBJECTS OF THE  
INFORMATION.

**Plaintiff**

***Douglas Alan Kaye, Plaintiff***

***Andrew E. Rubenstein  
The Mallia Law Firm  
One Riverway, Suite 610  
Houston, TX 77056  
(713)224-1100 - Telephone  
(713)222-7086 - Facsimile  
Attorney for Plaintiff***

**Defendant**

**Corporate Representative(s) of  
Synthes (USA) LP  
1302 Wrights Lane East  
West Chester, PA 19380**

*Defendant, a Delaware partnership, asserts that it did not manufacture or market any orthopedic medical devices. It has been correctly named, but because of its lack of connection to the design, manufacture and marketing of any Synthes products, it should not be a party to this matter.*

*Deanna H. Livingston  
Livingston & Livingston, L.L.C.  
1770 St. James Place, Suite 100  
Houston, TX 77056  
(713)783-6919 - Telephone  
(713)862-9587 - Fax  
Attorney for Defendant*

**Healthcare Providers**

*The following are physicians and/or healthcare providers who treated or assisted in the care of Mr. Kaye. Because of their training and experience, each possesses special expertise in various matters relevant to a variety of issues present in this case. Although none of these health care providers have been specially retained by or are subject to the control of Synthes (USA) LP any of the following individuals may be asked to provide expert testimony as to their past, present and/or predicted future treatment of Mr. Kaye as well as to the probable causes of Mr. Kaye's condition, both now and in the past.*

*Accordingly, Synthes (USA) LP reserves the right to rely on these individuals' knowledge and expertise through the use of introduction of any depositions or other testimony and/or the medical records containing these care providers' observations as well as their medical opinions as they may pertain to the matters at issue in this case:*

*Timothy Sitter, M.D.  
15400 Southwest Freeway, Suite 100  
Sugar Land, TX 77478  
(281)565-8800*

*Kenneth Renney, M.D.  
15400 Southwest Freeway, Suite 100  
Sugar Land, TX 77478  
(281)565-8800*

*Sugar Land Surgical Hospital  
1211 Highway 6, Suite 70  
Sugar Land, TX 77478  
(281)243-1000*

*Houston Orthopedic/Sports Medicine Associates, P.A.  
Timothy Sitter, M.D.  
15400 Southwest Freeway, Suite 100  
Sugar Land, TX 77478  
(281)565-8800*

**Custodians of Records**

*The persons listed below are custodians of medical and/or business records pertaining to Douglass Kaye. Each is expected to have knowledge of the records and how the records are generated and maintained. Defendant lists the following custodians of medical and other business records:*

**Custodian of Records for**  
*Timothy Sitter, M.D.  
15400 Southwest Freeway, Suite 100  
Sugar Land, TX 77478  
(281)565-8800*

**Custodian of Records for**  
*Kenneth Renney, M.D.  
15400 Southwest Freeway, Suite 100  
Sugar Land, TX 77478  
(281)565-8800*

**Custodian of Records for**  
*Sugar Land Surgical Hospital  
1211 Highway 6, Suite 70  
Sugar Land, TX 77478  
(281)243-1000*

**Custodian of Records for**  
***Houston Orthopedic/Sports Medicine Associates, P.A.***  
***Timothy Sitter, M.D.***  
***15400 Southwest Freeway, Suite 100***  
***Sugar Land, TX 77478***  
***(281)565-8800***

B. A COPY OF, OR A DESCRIPTION BY CATEGORY AND LOCATION OF, ALL DOCUMENTS, DATA COMPILATION, AND TANGIBLE THINGS THAT ARE IN THE POSSESSION, CUSTODY, OR CONTROL OF THE PARTY AND THAT THE DISCLOSING PARTY MAY USE TO SUPPORT ITS CLAIMS OR DEFENSES, UNLESS SOLELY FOR IMPEACHMENT.

*Any such documents are maintained at the offices of Livingston & Livingston, L.L.C., 1770 St. James Place, Suite 100, Houston, TX 77056, Houston, TX 77056*

1. *The Product Insert packaged with the product alleged to be the source of Plaintiff's claims. [copy attached].*

C. A COMPUTATION OF ANY CATEGORY OF DAMAGES CLAIMED BY THE DISCLOSING PARTY, MAKING AVAILABLE FOR INSPECTION AND COPYING AS UNDER RULE 34 THE DOCUMENTS OR OTHER EVIDENTIARY MATERIAL, NOT PRIVILEGED OR PROTECTED FROM DISCLOSURE, ON WHICH SUCH COMPUTATION IS BASED, INCLUDING MATERIALS BEARING ON THE NATURE AND EXTENT OF INJURIES SUFFERED.

*No damages are being claimed by Defendant at this time.*

D. FOR INSPECTION AND COPYING AS UNDER RULE 34 ANY INSURANCE AGREEMENT UNDER WHICH ANY PERSON CARRYING ON AN INSURANCE BUSINESS MAY BE LIABLE TO SATISFY PART OR ALL OF A JUDGMENT WHICH MAY BE ENTERED IN THE ACTION OR TO INDEMNIFY OR REIMBURSE FOR PAYMENTS MADE TO SATISFY THE JUDGMENT.

*Not applicable.*

2(a).1. A PARTY SHALL DISCLOSE TO OTHER PARTIES THE IDENTITY OF ANY PERSON WHO MAY BE USED AT TRIAL TO PRESENT EVIDENCE.

***Timothy Sitter, M.D.***  
***15400 Southwest Freeway, Suite 100***  
***Sugar Land, TX 77478***  
***(281)565-8800***

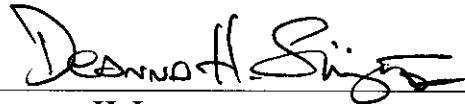
*Kenneth Renney, M.D.*  
*15400 Southwest Freeway, Suite 100*  
*Sugar Land, TX 77478*  
*(281)565-8800*

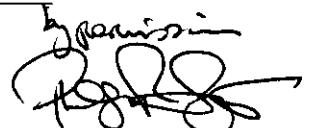
*Deanna H. Livingston*  
*1770 St. James Place, Suite 100*  
*Houston, TX 77056-3405*  
*Attorney for Defendant*

*Andrew E. Rubenstein*  
*The Mallia Law Firm*  
*One Riverway, Suite 610*  
*Houston, TX 77056*  
*Attorney for Plaintiff*

Respectfully Submitted,

**LIVINGSTON & LIVINGSTON, A TEXAS L.L.C.**

  
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**DEANNA H. LIVINGSTON**  
Bar Card No. 12437800  
1770 St. James Place, Suite 100  
Houston, Texas 77056-3405  
Telephone: (713) 783-6919  
Facsimile: (713) 862-9587

  
\_\_\_\_\_  
*by permission*  
*KR*

**ATTORNEYS FOR DEFENDANT,  
SYNTHES (USA) LP**

**CERTIFICATE OF SERVICE**

A true and correct copy of the above and foregoing pleading was duly served upon all parties or their counsel of record via certified mail, return receipt requested and/or via facsimile and/or by placing same in the United States Mail, postage prepaid, properly addressed to the counsel of record, on this the 29<sup>th</sup> day of August 2005.

Mr. Andrew E. Rubenstein  
THE MALLIA LAW FIRM, P.C.  
One Riverway, Suite 610  
Houston, TX 77056

*Via CMRR# 7004 1160 0002 8465 3278  
and Regular Mail*



DEANNA H. LIVINGSTON